

AMENDED IN SENATE JUNE 21, 2004

AMENDED IN SENATE JUNE 9, 2004

AMENDED IN SENATE MAY 28, 2004

AMENDED IN SENATE JULY 16, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1647**

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**Introduced by Assembly Member ~~Wiggins~~ Jerome Horton**  
*(Coauthor: Senator Alpert)*

February 21, 2003

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~~An act to add Section 1229 to the Water Code, relating to water. An act to add Chapter 3.5 (commencing with Section 2735) to Part 2 of Division 1 of the Public Utilities Code, relating to water supply.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1647, as amended, ~~Wiggins~~ Jerome Horton. ~~Appropriations of water: livestock stockponds~~ *Public water systems: mutual water companies: grant funds.*

*Under existing law, generally, any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court, owning, controlling, operating, or managing any water system within this state, who sells, leases, rents, or delivers water to any person, firm, corporation, municipality, or any other political subdivision, whether under contract or otherwise, is a public utility, and is subject to the jurisdiction, control, and regulation of the Public Utilities Commission. Existing law authorizes a mutual water company to perform specified*

acts without becoming a public utility subject to the jurisdiction, control, or regulation of the commission.

*This bill would provide that a public water system regulated by the commission or a mutual water company, as defined, is eligible for grant funding from the sale of any general obligation bond authorized by the voters, for the purposes stated in the authorizing bond act, unless not included or excluded by express provisions of the bond act, subject to certain conditions.*

~~The Water Rights Permitting Reform Act of 1988 authorizes any person to obtain a right to appropriate water for a small domestic or livestock stockpond use, as defined, upon registering the use with the State Water Resources Control Board, as prescribed, payment of a registration fee, and application of the water to reasonable and beneficial use with due diligence. The act authorizes any registrant to change the point of diversion or place of use by delivering to the board an amended registration form, including payment of the registration fee, but prohibits a change in the purpose of the use.~~

~~This bill would provide that, for the purposes of the act, the use of a livestock stockpond for irrigation purposes does not constitute a change in the purpose of the use of the water involved, if no more than one stockpond is designated for irrigation purposes for each 50 acres irrigated.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1   ~~SECTION 1. Section 1229 is added to the Water Code, to~~
- 2   ~~SECTION 1. The Legislature finds and declares all of the~~
- 3   ~~following:~~
- 4   ~~(a) More than 20 percent of all California residents receive~~
- 5   ~~their drinking water supply from a public water system regulated~~
- 6   ~~by the commission or a mutual water company. Many of these~~
- 7   ~~public water systems and mutual water companies serve~~
- 8   ~~disadvantaged communities and populations that are least able to~~
- 9   ~~pay for public water supply system improvements.~~
- 10   ~~(b) All California residents, including those served by public~~
- 11   ~~water systems regulated by the commission and mutual water~~
- 12   ~~companies, should be entitled to participate fully in the benefits of~~

1 *bond measures that are passed by the voters to provide a safe and*  
2 *reliable water supply.*

3 *(c) Public water systems regulated by the commission and*  
4 *mutual water companies should be entitled to compete on an equal*  
5 *basis for bond proceeds that their customers help finance with*  
6 *their tax dollars, provided that those bond funds do not benefit any*  
7 *private party or entity, but rather, will benefit the public at the time*  
8 *they are awarded and for the entire useful life of the utility plant*  
9 *constructed or acquired with those bond funds.*

10 *(d) It is the intent of the Legislature to ensure that no community*  
11 *is barred or disadvantaged from participating in and receiving the*  
12 *benefits of bond measures that are passed and paid for by all of the*  
13 *voters on the basis of the type of public water system that provides*  
14 *their water service.*

15 *SEC. 2. Chapter 3.5 (commencing with Section 2735) is*  
16 *added to Part 2 of Division 1 of the Public Utilities Code, to read:*

17  
18 *CHAPTER 3.5. FUNDING FOR WATER SUPPLY SYSTEM*  
19 *IMPROVEMENTS*  
20

21 *2735. (a) As used in this section, the following terms have the*  
22 *following meanings:*

23 *(1) "Mutual water company" means a corporation formed*  
24 *under the General Corporation Law (Division 1 (commencing*  
25 *with Section 100) of Title 1 of the Corporations Code) or the*  
26 *Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing*  
27 *with Section 7110) of Division 2 of Title 1 of the Corporations*  
28 *Code), organized for, and engaged in the business of, developing,*  
29 *distributing, supplying, or delivering water for irrigation or*  
30 *domestic use, or both, to its members or shareholders, at actual*  
31 *cost plus necessary expense.*

32 *(2) "Original grant basis" means the original cost of a utility*  
33 *plant financed with grant funds.*

34 *(b) A public water system regulated by the commission or a*  
35 *mutual water company is eligible for grant funding from the sale*  
36 *of any general obligation bond authorized by the voters, for the*  
37 *purposes stated in the authorizing bond act, unless not included or*  
38 *excluded by express provisions of the bond act, subject to all of the*  
39 *following:*

1     (1) A public water system regulated by the commission that  
2     receives grant funds shall account for all grant funds they receive  
3     for construction or acquisition of a utility plant in Account 265 for  
4     contributions in aid of construction, as set forth in the  
5     commission's Uniform System of Accounts.

6     (2) Consistent with the commission's ratemaking policies, the  
7     commission shall not authorize a public water system regulated by  
8     the commission to earn a rate of return on those grant funds used  
9     to acquire or construct a utility plant.

10    (3) A public water system regulated by the commission may not  
11    sell or lease a utility plant that is necessary or useful to that public  
12    water system in performing its public utility obligations except  
13    pursuant to an order of the commission in accordance with Section  
14    851.

15    (4) If a utility plant is sold and will continue to be used as part  
16    of a public water system regulated by the commission, this section  
17    applies to the entity that acquires the utility plant.

18    (5) If the grantee or an entity that acquires the utility plant sells  
19    the utility plant or otherwise disposes of it, and at the time of  
20    disposition the utility plant is no longer necessary or useful to the  
21    public water system regulated by the commission, the public water  
22    system shall determine that portion of the original grant basis and  
23    refund to the state an amount equal to the lesser of the following:

24    (A) The original grant basis, after being reduced for  
25    depreciation in accordance with the commission's adopted useful  
26    life of a utility plant at the time the utility plant was placed in  
27    service, less the cost of removal and restoration.

28    (B) The net proceeds from the sale or disposition of the utility  
29    plant.

30    (c) Notwithstanding any provision in a mutual water  
31    company's governing instruments, including, but not limited to, its  
32    bylaws and articles of incorporation, or any provision in the  
33    Corporations Code, with respect to a mutual water company  
34    receipt of grant funds pursuant to this section, if the assets  
35    purchased, constructed, financed, or otherwise acquired with  
36    grant funds are sold, distributed, disposed of, or otherwise  
37    transferred, whether upon dissolution or otherwise, to any  
38    individual or entity that does not utilize the assets for the benefit  
39    of the public, that individual or entity shall refund to the state an  
40    amount equal to the lesser of the following:

1     *(1) The original grant basis, after being reduced for*  
2     *depreciation in accordance with general accounting principles,*  
3     *less the cost of removal and restoration.*

4     *(2) The net proceeds from the sale or other disposition of the*  
5     *utility plant.*

6     *read:*

7     ~~1229. — For the purposes of this article, the use of a livestock~~  
8     ~~stockpond for irrigation purposes does not constitute a change in~~  
9     ~~the purpose of the use of the water involved, if no more than one~~  
10    ~~stockpond is designated for irrigation purposes for each 50 acres~~  
11    ~~irrigated.~~

